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In re Application of HAS
U.S. Application No.: 10/531,788
PCT Application No.: PCT/EP03/11444
Int. Filing Date: 15 October 2003
Priority Date Claimed: 21 October 2002
Attorney Docket No.: 2002P01277WOUS
For: ACTUATION DEVICE FOR A COOKING
APPLIANCE

DECISION

This is in response to applicant's "Petition for Revival" filed 08 August 2005.

BACKGROUND

On 15 October 2003, applicant filed international application PCT/EP03/11444, which claimed priority of an earlier Germany application filed 21 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 06 May 2004. The thirty-month period for paying the basic national fee in the United States expired on 21 April 2005.

On 18 April 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). However, the submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/EP03/11444 became abandoned as to the United States for failure to timely pay the basic national fee.

On 08 August 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The above-identified application became abandoned for failure to pay the appropriate filing fees. This omission was unintentional and Applicant hereby requests to revive the application." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 15 October 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 August 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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